

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

IN RE: COLUMBIA UNIVERSITY  
PATENT LITIGATION

MDL NO. 1592

IMMUNEX CORPORATION, a Washington  
Corporation and AMGEN INC., a Delaware  
Corporation,

Civil Action No. 04-10740-MLW

C.D. Cal. No. CV 03-4349 MRP (CWx)

Plaintiffs,

vs.

THE TRUSTEES OF COLUMBIA  
UNIVERSITY in the City of New York,  
a New York Corporation,

Defendant.

AND RELATED COUNTERCLAIM

**MOTION OF AMGEN INC. AND IMMUNEX CORPORATION  
TO SUPPLEMENT AND AMEND COMPLAINT**

Amgen Inc. and Immunex Corporation (collectively “Amgen”) request leave to supplement and amend Amgen’s Second Amended Complaint in the manner set forth in the Third Amended Complaint for Declaratory and Monetary and Injunctive Relief Re: Contract Rights, Invalidity, Unenforceability and Non-Infringement of U.S. Patent No. 6,455,275 and Predecessor Patents, attached as Ex. A. As grounds for this motion, Amgen states that the supplementation and the amendment of the causes of action are based upon both recent events and newly discovered facts. Further, Amgen states that the supplements and amendments are necessary in the interests of judicial economy and avoiding piecemeal litigation, as more fully set forth in the accompanying memorandum of law.

December 8, 2004

Respectfully submitted,

IMMUNEX CORPORATION and AMGEN INC.

By their attorneys,

/s/ Eileen M. Herlihy

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CERTIFICATE PURSUANT TO L.R. 7.1

Pursuant to Local Rule 7.1 (A)(2), the undersigned certifies that Kirke M. Hasson and Eileen M. Herlihy, counsel for plaintiffs Amgen Inc and Immunex Corp. conferred with Wayne Barsky, counsel for Columbia University, on November 29, 2004, and that Kirke M. Hasson further conferred with Mr. Barsky on December 1, 2004, regarding this motion and no agreement was reached. Columbia opposes Amgen's motion to amend.

/s/ Eileen M. Herlihy

CERTIFICATE OF SERVICE

I hereby certify that I caused a true copy of the above document to be served electronically upon the attorney of record for each other party on December 8, 2004.

/s/ Eileen M. Herlihy